

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1087

Introduced by Assembly Member Frommer

February 20, 2003

An act to ~~add Section 805 to the Insurance~~ amend Section 1246 of the *Business and Professions Code*, relating to ~~insurance~~ venipuncture.

LEGISLATIVE COUNSEL'S DIGEST

AB 1087, as amended, Frommer. ~~Insurance: underwriting: phlebotomy~~ Venipuncture.

Existing law provides that an unlicensed person employed by a licensed clinical laboratory may perform venipuncture or skin puncture for specified purposes upon specific authorization from a licensed physician and surgeon if he or she meets specified requirements, including any required certification.

This bill would provide, in addition, that a person may perform venipuncture or skin puncture for nontreatment or nondiagnostic purposes without supervision if that person is a specified health care practitioner, is licensed under the provisions regulating clinical laboratory technology, or has obtained certification as a certified phlebotomy technician.

~~Existing law provides for restrictions on underwriting and makes it a misdemeanor for any insurer to willfully violate those restrictions.~~

~~This bill would provide that only specified persons shall perform venipuncture or skin puncture for the purpose of gathering information to make underwriting determinations for life, health, or disability~~

insurance. By creating a new crime, this bill would impose a state-mandated local program on local governments.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes no. State-mandated local program: yes no.

The people of the State of California do enact as follows:

1 SECTION 1.—Section 805 is added to the Insurance Code, to
2 read:
3 805.—No person shall perform venipuncture or skin puncture
4 for the purpose of gathering information to make underwriting
5 determinations for life, health, or disability insurance, unless that
6 person is a physician, registered nurse, vocational nurse,
7 physician's assistant, a person licensed under Chapter 3
8 (commencing with Section 1200) of Division 2 of the Business and
9 Professions Code, or a person who either (a) has obtained
10 certification as a "certified phlebotomy technician" in accordance
11 with regulations adopted by the Department of Health Services
12 pursuant to paragraph (2) of subdivision (b) of Section 1246 of the
13 Business and Professions Code, or (b) if no regulations have been
14 adopted by the Department of Health Services pursuant to
15 paragraph (2) of subdivision (b) of Section 1246 of the Business
16 and Professions Code, has completed a training course in the
17 performance of venipuncture and skin puncture and has
18 demonstrated competence in those procedures to the insurance
19 company or its designee.
20 SEC. 2.—No reimbursement is required by this act pursuant to
21 Section 6 of Article XIII B of the California Constitution because
22 the only costs that may be incurred by a local agency or school
23 district will be incurred because this act creates a new crime or
24 infraction, eliminates a crime or infraction, or changes the penalty
25 for a crime or infraction, within the meaning of Section 17556 of
26 the Government Code, or changes the definition of a crime within

~~the meaning of Section 6 of Article XIII B of the California Constitution.~~

SECTION 1. Section 1246 of the Business and Professions Code is amended to read:

1246. (a) Except as provided in subdivision (b), and in Section 23158 of the Vehicle Code, an unlicensed person employed by a licensed clinical laboratory may perform venipuncture or skin puncture for the purpose of withdrawing blood or for clinical laboratory test purposes upon specific authorization from a licensed physician and surgeon provided that he or she meets both of the following requirements:

(1) He or she works under the supervision of a person licensed under this chapter or of a licensed physician or surgeon or of a licensed registered nurse. A person licensed under this chapter, a licensed physician or surgeon, or a registered nurse shall be physically available to be summoned to the scene of the venipuncture within five minutes during the performance of those procedures.

(2) He or she has been trained by a licensed physician and surgeon or by a clinical laboratory bioanalyst in the proper procedure to be employed when withdrawing blood in accordance with training requirements established by the State Department of Health Services and has a statement signed by the instructing physician and surgeon or by the instructing clinical laboratory bioanalyst that such training has been successfully completed.

(b) (1) On and after the effective date of the regulations specified in paragraph (2), any unlicensed person employed by a clinical laboratory performing the duties described in this section shall possess a valid and current certification as a “certified phlebotomy technician” issued by the department. However, an unlicensed person employed by a clinical laboratory to perform these duties pursuant to subdivision (a) on that date shall comply with this requirement within three years after the effective date of those regulations.

(2) The department shall adopt regulations for certification by January 1, 2001, as a “certified phlebotomy technician” that shall include all of the following:

(A) The applicant shall hold a valid, current certification as a phlebotomist issued by a national accreditation agency approved

1 by the department, and shall submit proof of that certification
2 when applying for certification pursuant to this section.

3 (B) The applicant shall complete education, training, and
4 experience requirements as specified by regulations that shall
5 include, but not be limited to, the following:

6 (i) At least 40 hours of didactic instruction.

7 (ii) At least 40 hours of practical instruction.

8 (iii) At least 50 successful venipunctures.

9 However, an applicant who has been performing these duties
10 pursuant to subdivision (a) may be exempted from the
11 requirements specified in clauses (ii) and (iii), and from 20 hours
12 of the 40 hours of didactic instruction as specified in clause (i), if
13 he or she has at least 1,040 hours of work experience, as specified
14 in regulations adopted by the department.

15 It is the intent of the Legislature to permit persons performing
16 these duties pursuant to subdivision (a) to use educational leave
17 provided by their employers for purposes of meeting the
18 requirements of this section.

19 (3) Each “certified phlebotomy technician” shall complete at
20 least three hours per year or six hours every two years of
21 continuing education or training. The department shall consider a
22 variety of programs in determining the programs that meet the
23 continuing education or training requirement.

24 (4) He or she has been found to be competent in phlebotomy by
25 a licensed physician and surgeon or person licensed pursuant to
26 this chapter.

27 (5) He or she works under the supervision of a licensed
28 physician and surgeon, licensed registered nurse, or person
29 licensed under this chapter, or the designee of a licensed physician
30 and surgeon or the designee of a person licensed under this chapter.

31 (6) The department shall adopt regulations establishing
32 standards for approving training programs designed to prepare
33 applicants for certification pursuant to this section. The standards
34 shall ensure that these programs meet the state’s minimum
35 education and training requirements for comparable programs.

36 (7) The department shall adopt regulations establishing
37 standards for approving national accreditation agencies to
38 administer certification examinations and tests pursuant to this
39 section.

1 (8) The department shall charge fees for application for and
2 renewal of the certificate authorized by this section of no more
3 than twenty-five dollars (\$25).

4 (c) *A person may perform venipuncture or skin puncture for*
5 *nontreatment or nondiagnostic purposes without supervision if*
6 *that person is a physician, registered nurse, vocational nurse,*
7 *physician's assistant, a person licensed under this chapter, or a*
8 *person who has obtained certification as a "certified phlebotomy*
9 *technician" in accordance with regulations adopted by the*
10 *department pursuant to paragraph (2) of subdivision (b).*

11 (d) The department may adopt regulations providing for the
12 issuance of a certificate to an unlicensed person employed by a
13 clinical laboratory authorizing only the performance of skin
14 punctures for test purposes.

